



THE CITY OF NEW YORK  
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October 9, 2014

**BY ECF**

Hon. James C. Francis, IV  
United States Magistrate Judge  
United States District Court  
500 Pearl Street  
New York, New York 10007

Re: Mark Nunez v. City of New York, et al., 11-CV-5845 (LTS) (JCF)

Your Honor:

We write jointly with plaintiffs' counsel in order to request a modification to the expert discovery schedule. This request only applies to the damages claims brought by nine (9) of the twelve (12) individual plaintiffs, not to the class claims or the damages claims brought by the other three named plaintiffs, all of whom are class representatives.<sup>1</sup> Discovery on the class related claims has been stayed until October 22, 2014 (*see* Dkt. 171), while the parties continue their settlement discussions.

Under the current scheduling order (as modified), expert discovery is required to be completed by November 30, 2014. However, the scheduling order does not set interim deadlines for the service of affirmative or rebuttal reports. In order to build in time for both sides to serve these reports, and to facilitate an orderly exchange of expert discovery, the parties have agreed as follows, subject to Your Honor's approval:

- (1) Plaintiffs' case-in-chief/affirmative expert reports due Oct. 15, 2014, with the exception of Plaintiff Sewell, whose expert report is due Nov. 3, 2014;

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<sup>1</sup> The three plaintiffs whose claims are excluded from this request are Travis Woods, Rodney Brye and Oscar Sanders. The parties agreed to hold off on their depositions given the stay of class related discovery, and will ask the Court for an expert discovery schedule after the completion of those depositions.

(2) Defendants' case-in-chief/affirmative expert reports due Nov. 15, 2014;

(3) Both sides' rebuttal reports, if any, due Jan. 15, 2015.

The parties also have agreed, subject to Your Honor's approval, that expert depositions may be taken anytime after Jan. 15, 2015, up to and including forty-five (45) days before trial.

If granted, this request would result in an extension of forty-five (45) days of the deadline to complete expert discovery, subject to either side's right to take expert depositions if that party so chooses. In addition to the reasons set forth above, the parties seek this extension in order to accommodate schedules (for example, the City's lead attorney, Arthur Larkin, will be on trial starting Nov. 10, 2014, in the matter *McCaffrey v. City of New York*, 11-CV-1636 (RJS), and will be on vacation from Dec. 20-31, 2014), and because most of the attorneys on both sides have been, and will continue to be, heavily involved in the negotiations concerning the class claims

We thank Your Honor in advance for considering this request.

Respectfully submitted,

/s/

Kimberly M. Joyce  
Assistant Corporation Counsel

cc: All Counsel (by ECF)